

### **III. REMARKS**

Claims 1-8 and 10 are pending in this application. By this Amendment, claims 1 and 3 have been amended and claim 10 has been added. Reconsideration in view of the above amendments and following remarks is respectfully requested. No new matter is believed added.

In the Office Action, claim 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jin et al. (U.S. 6,350,665 B1), hereafter “Jin”, in view of Odake et al. (U.S. 6,030,869), hereafter “Odake.” Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jin in view of Odake and further in view of Ishimaru et al. (U.S. 6,365,472 B1), hereafter “Ishimaru.”

Applicant submits that these rejections are defective, and that the pending claims are allowable. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143.

Applicant submits that the combination of Jin and Odake fails to teach or suggest each and every feature of the claimed invention. Specifically, under the claimed invention, a gate oxide layer is formed directly on a surface of a semiconductor body of silicon, on which gate

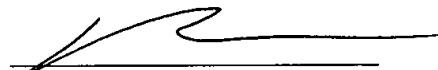
oxide layer the gate electrode containing a polycrystalline silicon layer is provided locally. As shown in Fig. 1 of the present application, the gate oxide layer (4) is formed directly on the semiconductor body (10). Such a feature is not present in Jin or Odake. Specifically, the alleged gate oxide of Odake referred to by the Examiner is actually a floating gate electrode (see column 6, line 10 of Odake) and not a gate oxide layer. Moreover, the floating gate electrode of Odake is formed on a tunnel insulating film (2) and not directly on a surface of the semiconductor body. Still yet, under the claimed invention, the gate electrode (1) is provided locally (i.e., directly) on the gate oxide layer (4). Conversely, under Odake, a capacitive insulating film is provided between the floating gate electrode and the control gate electrode (see Fig. 1 of Odake). Therefore, because the combination of Jin and Odake fail to teach or suggest each and every feature of the claimed invention, it is respectfully requested that the above-referenced rejections be withdrawn.

Claims 2-8 are believed allowable for the same reasons, as well as for their own additional features. For example, with respect to claim 5, Fig. 1 shows that the claimed invention includes apertures (8 and 9) on both sides of the gate electrode (1). Both such apertures (8 and 9) are provided with a metal layer (11). This feature is neither taught nor suggested by the cited combination of art. Applicant also notes that the Office is attempting to take Official Notice that the process of converting a metal layer into a silicide layer would be common practice, and that the dimensional range of the drain region to the gate region involves routine optimization. Applicant disagrees with these conclusions and respectfully requests that the Office provide references showing these features.

With regards to new claim 10, Applicant respectfully submits that none of the cited art references teach, among other things, forming a gate oxide layer directly on an epitaxial layer of a semiconductor body of silicon over a source region and a drain region. Accordingly, it is respectfully submitted that claim 10 is allowable as well.

Applicant respectfully submits that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, he is requested to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,



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